UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,389	10/17/2001	David Graumann	P12451	6813

76973 7590 10/07/2008

The Law Offices of Christopher K. Gagne
c/o Intellevate, LLC
B.O. Box 52050
Minneapolis, MN 55402

EXAMINER	
FAULK, DEVONA E	
ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
10/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/981,389	GRAUMANN, DAVID	
	Examiner	Art Unit	
	DEVONA E. FAULK	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-7,9-13,15,16 and 18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-7,9-13,15,16 and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 November 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, regarding the newly recite language, filed 6/11/08, with respect to the rejection(s) of claim(s) 1,3-7,9-13,15-16 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Byers.

2. Claims 8,14,17 and 19-26 are cancelled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1,3-5,7,9-10,12,13,15,16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Byers (US 6,219,645) in view of Birchfield et al. (U.S. Patent Application 2002/0097885) in further view of Matsuo (US 6,600, 824).

Regarding **claim 1**, Byers discloses an acoustic source localization system and method comprising:

a first microphone located at a first location to detect acoustic waves at the first location (either of microphones 70,75,80,85, Figure 1; column 4, lines 33-49);

a second microphone located at a second location to detect the acoustic waves at the second location (either of microphones 70,75,80,85; Figure 1; column 4, lines 33-49);

multiple reflectors having acoustically reflective surfaces of an irregular shape that provide additional phase variation, resulting in improved spatial distinction during analysis, said reflectors structured and arranged to reflect the acoustic waves in a direction such that the acoustic waves contact and are detected by both the first microphone and first microphone (Figure 1; column 5, lines 1-29; the ears of the user read on multiple reflectors, the phase variation occurs due to the inherent difference in the arrival of sound at the ears which provides spatial distinction; the ears reflect in the direction of microphones)

an acoustic analysis device to detect and analyze acoustic waves (ASR controller 50; column 5, lines 15-35; column 7, lines 28-47);

a processing device to determine a spatial location of a source of the acoustic waves (ASR controller 50; column 5, lines 15-35; column 7, lines 28-47; ASR functions as both the analysis and processing device) .

Byers teaches of determining a spatial location of a source of the acoustic waves.

Byers fails to teach of using the Generalized Cross Correlation Phase Transform.

Burchfield discloses an acoustic source localization system applicable to audio-visual applications and using the Generalized Cross Correlation Phase Transform (page 3, paragraph 0040).

It would have been obvious to modify Matsuo to use the Generalized Cross Correlation Phase Transform to determine a location of a source so that a transform that has been proven to work in determining the location of an audio source can be used .

Byers as modified fails to teach that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone. Matsuo teaches that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone (column 16, lines 63-column 17, line 9).

It would have been obvious to modify Byers as modified so that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone for the benefit of enhancing the desired sound.

Regarding **claim 3**, Byers as modified discloses wherein the at least one acoustically reflective surface is shaped like a human pinnea (pinnea is defined as the externally visible cartilaginous structure of the external ear). Therefore, all elements of claim 3 are comprehended by the rejection of claim 1.

Regarding **claim 4**, Byers as modified discloses wherein the at least one acoustically reflective surface has low acoustic absorption properties (the ear has low acoustic absorption properties). Therefore, all elements of claim 4 are comprehended by the rejection of claim 1.

Regarding **claim 5**, Byers as modified discloses a processing device that directs an observation device to the spatial location of the source of the acoustic waves (Birchfield, paragraph 0072).

Regarding **claim 7**, Byers discloses a method of determining a spatial location of a source of acoustic waves, comprising:

Detecting, with a first microphone, acoustic waves at a first location (either of microphones 70,75,80,85, Figure 1; column 4, lines 33-49);

Detecting, with a second microphone, acoustic waves located at a second location to detect the acoustic waves at the second location (either of microphones 70,75,80,85; Figure 1; column 4, lines 33-49);

Reflecting, with multiple reflectors having acoustically reflective surfaces of an irregular shape that provide additional phase variation, resulting in improved spatial distinction during analysis, said reflectors structured and arranged to reflect the acoustic waves in a direction such that the acoustic waves contact and are detected by both the first microphone and first microphone (Figure 1; column 5, lines 1-29; the ears of the user read on multiple reflectors, the phase variation occurs due to the inherent difference in the arrival of sound at the ears which provides spatial distinction; the ears reflect in the direction of microphones)

Analyzing the acoustic waves (ASR controller 50; column 5, lines 15-35; column 7, lines 28-47);

Determining spatial location of a source of the acoustic waves (ASR controller 50; column 5, lines 15-35; column 7, lines 28-47; ASR functions as both the analysis and processing device) .

Byers teaches of determining a spatial location of a source of the acoustic waves.

Byers fails to teach of using the Generalized Cross Correlation Phase Transform.

Burchfield discloses an acoustic source localization system applicable to audio-visual applications and using the Generalized Cross Correlation Phase Transform (page 3, paragraph 0040).

It would have been obvious to modify Matsuo to use the Generalized Cross Correlation Phase Transform to determine a location of a source so that a transform that has been proven to work in determining the location of an audio source can be used .

Byers as modified fails to teach that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone. Matsuo teaches that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone (column 16, lines 63-column 17, line 9).

It would have been obvious to modify Byers as modified so that in response to the spatial location of the source to at least one of delay an output of the first or second

microphone or selectively disable the first or second microphone for the benefit of enhancing the desired sound.

Regarding **claim 12**, Byers discloses a sound locating device, comprising:

Detecting, with a first microphone, acoustic waves at a first location (either of microphones 70,75,80,85, Figure 1; column 4, lines 33-49);

Detecting, with a second microphone, acoustic waves located at a second location to detect the acoustic waves at the second location (either of microphones 70,75,80,85; Figure 1; column 4, lines 33-49);

Reflecting, with multiple reflectors having acoustically reflective surfaces of an irregular shape that provide additional phase variation, resulting in improved spatial distinction during analysis, said reflectors structured and arranged to reflect the acoustic waves in a direction such that the acoustic waves contact and are detected by both the first microphone and first microphone (Figure 1; column 5, lines 1-29; the ears of the user read on multiple reflectors, the phase variation occurs due to the inherent difference in the arrival of sound at the ears which provides spatial distinction; the ears reflect in the direction of microphones)

Analyzing the acoustic waves (ASR controller 50; column 5, lines 15-35; column 7, lines 28-47);

Determining spatial location of a source of the acoustic waves (ASR controller 50; column 5, lines 15-35; column 7, lines 28-47; ASR functions as both the analysis and processing device) .

Byers teaches of determining a spatial location of a source of the acoustic waves.

Byers fails to teach of using the Generalized Cross Correlation Phase Transform and of a program stored on a computer readable medium.

Burchfield discloses an acoustic source localization system applicable to audio-visual applications and using the Generalized Cross Correlation Phase Transform (page 3, paragraph 0040) and of computer-readable program code stored on a computer readable medium includes instructions to direct an observation device to the determined spatial location of the source of the acoustic waves (Birchfield, paragraph 0037; paragraph 0072).

It would have been obvious to modify Byers to use the Generalized Cross Correlation Phase Transform to determine a location of a source so that a transform that has been proven to work in determining the location of an audio source can be used and it would have been obvious to modify Byers as modified so that the program is stored on a medium so that the process can be applied to various systems.

Byers as modified fails to teach that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone. Matsuo teaches that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone (column 16, lines 63-column 17, line 9).

It would have been obvious to modify Byers as modified so that in response to the spatial location of the source to at least one of delay an output of the first or second microphone or selectively disable the first or second microphone for the benefit of enhancing the desired sound.

Regarding **claim 9**, Byers as modified discloses wherein the at least one acoustically reflective surface has low acoustic absorption properties. (the ear , of the user, has low acoustic absorption properties). Therefore, all elements of claim 9 are comprehended by the rejection of claim 7.

Regarding **claim 10**, Byers as modified discloses directing an observation device to the determined spatial location of the source of the acoustic waves (Birchfield, paragraph 0072).

Regarding **claim 13**, Byers as modified discloses wherein at least one acoustically reflective surface is utilized to reflect the acoustic sound waves (See Byers as applied above as applied above to claim 12) Therefore, all elements of claim 13 are comprehended by the rejection of claim 12.

Regarding **claim 15**, Byers as modified discloses wherein the at least one acoustically reflective surface has low acoustic absorption properties (the ear has low acoustic absorption properties). Therefore, all elements of claim 15 are comprehended by the rejection of claim 13.

Regarding **claim 16**, Byers as modified discloses wherein the computer-readable program code includes instructions to direct an observation device to the determined

spatial location of the source of the acoustic waves (Birchfield, paragraph 0037; paragraph 0072).

5. **Claims 6,11 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Byers (US 6,219,645) in view of Birchfield et al. (U.S. Patent Application 2002/0097885) in further view of Matsuo (US 6,600, 824) in further view of Nordstrom et al. (US 5,058,419).

Regarding **Claim 6,11 and 18** Byers as modified teaches of computing phase angles corresponding to microphone position (Birchfield, paragraph 0058) . Byers as modified fails to disclose further including a calibration device to create a set of phase signature tables associating phase angles, between when the acoustic waves reach the first microphone and when the acoustic waves reach the second microphone, with detected frequencies at a predetermine spatial location. Nordstrom teaches of a method for locating a sound source including a calibration device to create a set of phase signature tables associating phase angles, between when the acoustic waves reach the first transducer and when the acoustic waves reach the second transducer, with detected frequencies at a predetermine spatial location (Figure 3; column 3, lines 16-32; column 5, lines 2-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Byers as modified by creating a phase table as claimed in order to be able to better calculate the location of the sound source.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEVONA E. FAULK whose telephone number is (571)272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devona E. Faulk/
Examiner, Art Unit 2615

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2615